

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**  
**Agenda ID #15056**  
**ENERGY DIVISION** **RESOLUTION E-4797**  
**August 18, 2016**

**R E D A C T E D**  
**R E S O L U T I O N**

Resolution E-4797. Pacific Gas and Electric Company requests Commission approval of amendments to its price agreements with Rio Bravo Fresno and Pacific Ultrapower Chinese Station.

**PROPOSED OUTCOME:**

- This Resolution approves the extensions to the price agreements between Pacific Gas and Electric Company and Rio Bravo Fresno and Pacific Ultrapower Chinese Station.

**SAFETY CONSIDERATIONS:**

- These three-month price agreement extensions have no known safety impacts.

**ESTIMATED COST:**

- Actual costs are confidential at this time.

By Advice Letter 4851-E, filed on June 3, 2016.

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**SUMMARY**

The proposed amendments to Pacific Gas and Electric Company's power purchase agreements with two biomass facilities, Rio Bravo Fresno (Rio Bravo) and Pacific Ultrapower Chinese Station (Chinese Station), in response to the Governor's Tree Mortality Emergency Proclamation are approved without modifications. The two amendments extend price agreements with each of the facilities for three months beyond the expiration of current price agreements, until October 31, 2016.

Pacific Gas and Electric Company (PG&E) filed Advice Letter (AL) 4851-E on June 3, 2016, requesting California Public Utilities Commission (Commission)

approval of two amendments (Amendments) to its existing power purchase agreements (PPAs) with Rio Bravo and Chinese Station.

This resolution approves cost recovery for the Amendments proposed by AL 4851-E without modifications. PG&E's execution of the Amendments are consistent with PG&E's 2015 Renewables Portfolio Standard (RPS) Procurement Plan as approved in Decision 15-12-025, especially pursuant to Commission Resolution E-4770 which permitted PG&E to bilaterally procure Renewables Portfolio RPS-eligible power in response to the Governor's Tree Mortality Proclamation. Deliveries under the Amendments are reasonably priced and fully recoverable in rates, subject to Commission review of their administration. Table 1 provides a brief overview of the Amendments.

**Table 1: Summary of Rio Bravo and Chinese Station Amendments**

<b>Facility</b>	<b>Generation Type</b>	<b>Size (MW)</b>	<b>Amendment Effective Date</b>	<b>Agreement End Date</b>	<b>County</b>
Rio Bravo	Biomass	26.5	August 1, 2016	October 31, 2016	Fresno
Chinese Station	Biomass	22	August 1, 2016	October 31, 2016	Tuolumne

## **BACKGROUND**

### **Overview of the Governor's Tree Mortality Emergency Proclamation**

Severe drought conditions and an epidemic infestation of bark beetles have caused tree mortality in several regions of California. On October 30, 2015, Governor Brown issued an Emergency Proclamation (Proclamation)<sup>1</sup> to protect public safety and property from falling dead trees and wildfire. Ordering Paragraph 1 of the Proclamation tasked the Department of Forestry and Fire Protection (CAL FIRE), the California Natural Resources Agency, the California Department of Transportation, and the California Energy Commission to immediately identify "high hazard zones for wildfire and falling trees" and

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<sup>1</sup> [https://www.gov.ca.gov/docs/10.30.15\\_Tree\\_Mortality\\_State\\_of\\_Emergency.pdf](https://www.gov.ca.gov/docs/10.30.15_Tree_Mortality_State_of_Emergency.pdf)

ordered the California Public Utilities Commission (Commission) to take various measures to ensure that contracts with bioenergy facilities that receive feedstock from high hazard zones (HHZs) will be expedited.

### **Overview of the Renewables Portfolio Standard (RPS) Program**

The California RPS program was established by Senate Bill (SB) 1078, and has been subsequently modified by SB 107, SB 1036, and SB 2 (1X) and SB 350.<sup>2</sup> The RPS program is codified in Public Utilities Code Sections 399.11-399.31.<sup>3</sup> The RPS program requires each retail seller to procure eligible renewable energy resources so that the amount of electricity generated from eligible renewable resources is an amount that equals an average of 20 percent of the total electricity sold to retail customers in California for compliance period 2011-2013; 25 percent of retail sales by December 31, 2016; 33 percent of retail sales by December 31, 2020 and corresponding increases up to 50% by December 31, 2030.

Additional background information about the Commission's RPS Program, including links to relevant laws and Commission decisions, is available at [http://www.cpuc.ca.gov/RPS\\_Homepage/](http://www.cpuc.ca.gov/RPS_Homepage/) and [http://www.cpuc.ca.gov/RPS\\_Decisions\\_Proceedings/](http://www.cpuc.ca.gov/RPS_Decisions_Proceedings/)

### **Relevant Provisions in the 2015 RPS Procurement Plans**

Pursuant to the authority provided in Public Utilities Code § 399.13(a)(1), D.15-12-025 accepted, with some modifications, the draft 2015 RPS Procurement Plans, including the related solicitation protocols, filed by the utilities including PG&E. D.15-12-025 accepted PG&E's position that it was well-positioned to meet its RPS targets and would therefore not issue a 2015 RPS solicitation. D.15-12-025 also specified that PG&E was required to first seek the Commission's permission before entering into any solicitations or bilateral contracts for RPS-eligible

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<sup>2</sup> SB 1078 (Sher, Chapter 516, Statutes of 2002); SB 107 (Simitian, Chapter 464, Statutes of 2006); SB 1036 (Perata, Chapter 685, Statutes of 2007); SB 2 (1X) (Simitian, Chapter 1, Statutes of 2011, First Extraordinary Session); and SB 350 (De León, Chapter 547, Statutes of 2015)

<sup>3</sup> All further statutory references are to the Public Utilities Code unless otherwise specified.

resources during the time period covered by their respective 2015 RPS solicitation cycles.

### **Provisions Permitting Bilateral Contracting in Response to Emergency**

On March 17, 2016, the Commission approved Energy Division's Resolution E-4770 addressing some of the Proclamation's directives to the Commission. In addition to directing new Renewable Auction Mechanism procurement of bioenergy from facilities processing high hazard zone fuel, E-4770 also lifted the prohibition in D.15-12-025 on bilateral RPS procurement for PG&E and for San Diego Gas & Electric Company (SDG&E); Southern California Edison Company (SCE) already had permission. Specifically, E-4770 stated "To implement the Proclamation, it is essential that PG&E and SDG&E be allowed to enter into bilateral contracts to facilitate any potential contracts with existing forest bioenergy facilities receiving feedstock from high hazard zones. Therefore, PG&E and SDG&E are allowed to enter into bilateral contracts with existing forest bioenergy facilities receiving feedstock from high hazard zones during the duration of the 2015 RPS solicitation cycle."<sup>4</sup>

Pursuant to this provision, PG&E executed the Agreement on May 24, 2016.

### **NOTICE**

Notice of Advice Letter 4851-E was made by publication in the Commission's Daily Calendar. PG&E states that a copy of the Advice Letter was mailed and distributed in accordance with Section 3.14 of General Order 96-B.

### **PROTESTS**

Advice Letter 4851-E was not protested.

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<sup>4</sup> Commission Resolution E-4770, pages 6-7.

<http://docs.cpuc.ca.gov/PublishedDocs/Published/G000/M159/K652/159652363.PDF>

## **DISCUSSION**

### **Pacific Gas and Electric Company (PG&E) requests approval of Amendments to its power purchase agreements with Rio Bravo and Chinese Station.**

#### **Overview of the Existing Agreements**

PG&E has existing, separate Qualifying Facility (QF) PPAs with Rio Bravo and Chinese Station.

Chinese Station is a 22 MW biomass facility located in Jamestown, Tuolumne County, California. It is owned by Jamestown Energy Incorporated and IHI Power Generation Corporation (IHI), and operated by IHI. Its PPA expires in January 2017.

Rio Bravo is a 26.5 MW biomass facility located in Fresno, Fresno County, California. It is owned by North American Power Group and IHI, and is operated by IHI. Its PPA expires in February 2019.

Both facilities also have previous fixed price agreements with PG&E that were executed in 2011 to provide a price increase in exchange for enhanced performance obligations. Both price agreements expire July 31, 2016.

#### **Overview of the Amendments**

To respond in part to the Governor's Proclamation, PG&E executed the instant Amendments to its PPAs with Rio Bravo and Chinese Station to provide extended fixed pricing terms. The Amendments also include other terms and conditions, and they are effective August 1, 2016 through October 31, 2016. Attestations from both facilities' General Managers stating that they have already begun receiving high hazard zone fuel, and that the Amendments are necessary to continue operating and processing fuel, are included in AL 4851-E. PG&E filed AL 4851-E on June 3, 2016. On June 13, PG&E filed and served substitute sheets for AL 4851-E, correcting a non-substantive error (the use of the word "amendment" instead of "contract") made in 2011 when the prior amendments were filed.

PG&E states in AL 4851-E that although there are other facilities in the state in a similar economic position as Rio Bravo and Chinese Station, it negotiated the Amendments “primarily because their proximities to the areas most impacted by tree mortality and HHZ fuels allows them to help address the declared emergency in the immediate term,” and because the currently-operating, interconnected facilities will not pose interconnection or construction concerns. PG&E also states that “the three-month term is designed to ensure continued operation during the fire season and during a period when weather is more likely to allow the use of HHZ fuels.”

See Confidential Appendix A for additional detail on the Amendments.

**PG&E Requests That the Commission Issue a Resolution That:**

1. Approves each Amendment in its entirety, including payments to be made by PG&E pursuant to the Amendment, subject to the Commission’s review of PG&E’s administration of the Amendment.
2. Finds that any procurement pursuant to the Amendment is procurement from eligible renewable energy resources for purposes of determining PG&E’s compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California RPS (Public Utilities Code Section 399.11 et seq.), D. 11-12-020 and D.11-12-052, or other applicable law.
3. Finds that all procurement and administrative costs, as provided by Public Utilities Code section 399.13(g), associated with the Amendments shall be recovered in rates.
4. Finds that PG&E’s payments under the Amendments shall be recovered through PG&E’s Energy Resource Recovery Account.
5. Finds that the Amendments are pre-approved as meeting the EPS because they are for existing biomass facilities covered by Conclusion of Law 35(d) of D.07-01-039.

**Energy Division Evaluated the Amendments Based on the Following Criteria:**

- RPS Portfolio Need and Consistency with PG&E's 2015 RPS Procurement Plan
- Price Reasonableness and Value
- Compliance with Bilateral Contracting Requirements
- Independent Evaluator (IE) Report
- Consistency with RPS Standard Terms and Conditions
- Consistency with Portfolio Content Categories Requirements
- Procurement Review Group Participation
- Compliance with the Interim Greenhouse Gas Emissions Performance Standard
- Project Viability Assessment and Development Status
- Safety Considerations

**RPS Portfolio Need and Consistency with PG&E's 2015 RPS Procurement Plan**

California's RPS statute requires the Commission to direct each utility to prepare an annual RPS Procurement Plan (Plan) and then review and accept, modify, or reject the Plan prior to the commencement of a utility's annual RPS solicitation.<sup>5</sup> The Commission must then accept or reject proposed a PPA based on its consistency with the utility's approved Plan. PG&E's 2015 RPS Procurement Plan was approved in D.15-12-025.

A range of unique circumstances characterize these Amendments. They are very short-term extensions of existing price agreements, executed to address immediate, localized hazardous fuel situations subject to an Emergency Proclamation. Although PG&E had not anticipated a need for bilateral RPS procurement in the 2015 RPS Plan period, the Commission provided

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<sup>5</sup> Pub. Util. Code, § 399.14.

authorization in E-4770 for this type of procurement pursuant to the Proclamation and expressly to remove a barrier to potential expedited actions that could implement the Proclamation. The Amendments do not alter or impact the underlying, continuing PPAs or the RPS contributions therein.

In light of these facts, the Amendments are consistent with PG&E's 2015 RPS Procurement Plan as approved in D.15-12-025, and with the bilateral contracting authorization in Resolution E-4770.

### **Price Reasonableness and Value**

PG&E evaluated the attributes of the Amendments qualitatively. No solicitation was conducted, and as stated above this procurement is characterized by unique circumstances. In AL 4851-E, PG&E evaluated the reasonableness of the Amendments against its most recent renewable energy solicitations and against a range of other transactions or procurement alternatives such as the average levelized post-Time of Delivery (TOD) Renewable Auction Mechanism (RAM) 5 bid price from biomass resources. The Amendments ranked favorably compared to some of this other procurement. PG&E recognizes, as does the IE retained to evaluate the Amendments, that their price is higher than would be expected in a solicitation as well as higher than the underlying PPA price. Thus, the Amendments increase ratepayer costs. See Confidential Appendix A for a price and value comparison of the Agreement.

Despite the lack of directly comparable recent procurement, and the higher cost, we find the price and value of the Agreement reasonable in the context of a response to a state of emergency. The Amendments are substantively a mere continuation (and brief one) of the status quo; they also provide essential operational support for facilities that are already using HHZ fuel.

The price and value of the Amendments are reasonable. Cost recovery for the Amendments to the PPAs between PG&E and Rio Bravo and Chinese Station respectively is approved. PG&E shall recover the costs of the Amendments in rates.



### **Compliance with Bilateral Contracting Requirements**

The Commission provided guidelines for bilateral RPS contracting in D.06-10-019 and D.03-06-071, requiring the following: 1) bilateral contracts should be filed via Advice Letter, 2) bilateral contracts should be longer than one month in duration, 3) the contract should not receive above-market funds, and 4) the contract is deemed reasonable by the Commission. Subsequently, D.09-06-050 stated that bilateral contracts should be subject to the same standards as contracts resulting from solicitations.

The Amendments meet requirements applicable to bilateral contracting.

### **Independent Evaluator (IE) Report**

The Independent Evaluator, Arroyo Seco Consulting (Arroyo), evaluated the Agreement. In terms of pricing and market value, Arroyo states that the most recent biomass procurement is not directly comparable to the Amendments, because of the Amendments' short term. However, Arroyo does estimate the expected non-renewable energy prices over the Amendment terms plus the expected price of Portfolio Content Category (PCC) 1 Renewable Energy Credits to compare them with the incremental Amendments' cost. In sum, Arroyo estimates the net market value of both Amendments to be "quite low."

Arroyo finds the viability of the Amendments high, because the facilities are already constructed, interconnected, permitted, and fully operational. Arroyo finds the Amendments qualitatively rank low in portfolio fit, due to PG&E's lack of immediate need for RPS procurement and the fact that the Amendments generally provide baseload power when PG&E needs more flexible resources.

Arroyo provides extensive analysis questioning the fairness of PG&E's choice to execute extended agreements with these two facilities and not others. Arroyo considers the choice "less than fully fair to competing biomass-fueled generators." It notes that at least four other facilities sought price relief from PG&E, and identifies a specific facility (Wheelabrator Shasta, in Shasta County) which also has a current pricing agreement with PG&E that was executed at the same time as were Rio Bravo and Chinese Station's, and notes that Wheelabrator Shasta is located closer to a HHZ than either of those facilities. Arroyo questions why Wheelabrator Shasta was not treated equally given its comparable pricing,

value, proximity to HHZs, and viability. However, Arroyo notes that Wheelabrator Shasta is located farther north, near HHZs that are smaller, whereas Rio Bravo and Chinese Station are closer to the six-county Southern Sierra area where the tree mortality and HHZs are currently most severe and dense. Arroyo ultimately concludes that these issues appear moot because there is no indication that Wheelabrator Shasta was or is using HHZ fuels, which is the justification for the Amendments. This Commission is similarly unaware of other facilities currently using HHZ fuel. Overall, Arroyo's recommendation on merit is tentative.

We find no compelling fault in PG&E's choice to focus on facilities nearest the most severe HHZ areas; the shortest road distance to a HHZ designation is not the only valid fuel viability consideration. It is reasonable to expect that fuel transportation logistics and funding in the immediate term may be most developed in areas where HHZs are densest. It is also reasonable to focus on currently-operating, contracted facilities purely for expediency. Fairness and overall value are relevant considerations in the procurement of additional biomass resources (applicable herein and broadly) but in light of the current situation in which they were executed, we find the Amendments reasonable.

See Confidential Appendix B for more details.

Consistent with D.06-05-039 regarding IE review of procurement, an IE oversaw PG&E's negotiations with Rio Bravo and Chinese Station and compared the costs, value and viability of the Amendments against peer groups consisting of alternative competing proposals currently or recently available to PG&E.

### **Reporting to Energy Division**

As Amendments responding to the Emergency Proclamation, we are interested in obtaining detailed information about the Amendments' cost, and their impacts on HHZ fuel. Therefore, we are requiring PG&E to provide a report about the Amendments via a letter to the Energy Division Director.

No later than 30 days after the end date of the Amendments, PG&E shall submit a letter reporting fuel information by facility; cost information (demonstrating all-in prices paid, compared to renewable market prices over the term); and any

other pertinent information PG&E has about fuel logistics, obstacles, uncertainties, or best practices. Confidential Appendix A specifies additional details that shall be included in this letter.

### **Consistency with RPS Standard Terms and Conditions**

The Commission adopted a set of standard terms and conditions (STCs) required in RPS contracts, four of which are considered “non-modifiable.” The STCs were compiled in D.08-04-009 and subsequently amended in D.08-08-028. More recently in D.10-03-021, as modified by D.11-01-025, the Commission further refined these STCs.

The existing Rio Bravo and Chinese Station PPAs as corrected by the substitute sheets to AL 4851-E include, and the Agreement does not modify, the Commission-adopted RPS “non-modifiable” standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025.

### **Consistency with Portfolio Content Category Requirements**

In D.11-12-052, the Commission defined and implemented portfolio content categories for the RPS program and authorized the Director of Energy Division to require the investor-owned utilities to provide information regarding the proposed contract’s portfolio content category classification in each advice letter seeking Commission approval of an RPS contract. The purpose of the information is to allow the Commission to evaluate the claimed portfolio content category of the proposed RPS PPA and the risks and value to ratepayers if the proposed PPA ultimately results in renewable energy credits in another portfolio content category.

In AL 4851-E, PG&E states that the product procured pursuant to the facilities’ PPAs is classified as Portfolio Content Category 0, and that nothing in the Amendments impacts the PPAs with regards to RPS compliance.

Consistent with D.11-12-052, PG&E provided information in AL 4851-E regarding the expected portfolio content category classification of the renewable energy credits to be procured pursuant to the contracts as amended.

### **Procurement Review Group Participation**

The Procurement Review Group (PRG) process was initially established in D.02-08-071 to review and assess the details of the investor-owned utilities' overall procurement strategy, solicitations, specific proposed procurement contracts and other procurement processes prior to submitting filings to the Commission as a mechanism for procurement review by non-market participants.

PG&E states it notified its PRG on April 29, 2016, described PG&E's rationale for executing the Amendments, and did not receive any feedback or comments from the PRG.

Pursuant to D.02-08-071, PG&E complied with the Commission's rules for involving the Procurement Review Group in its execution of the Amendments.

### **Compliance with the Interim Greenhouse Gas Emissions Performance Standard (EPS)**

California Public Utilities Code Sections 8340 and 8341 require the Commission to consider emissions associated with new long-term (five years or greater) PPAs procured on behalf of California ratepayers.

D.07-01-039 adopted an interim EPS that establishes an emission rate for obligated facilities at levels no greater than the GHG emissions of a combined-cycle gas turbine power plant. The EPS applies to all energy PPAs for baseload generation that are at least five years in duration.<sup>6</sup> Generating facilities using certain renewable resources, including biomass, are deemed compliant with the EPS.<sup>7</sup>

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<sup>6</sup> "Baseload generation" is electricity generation at a power plant "designed and intended to provide electricity at an annualized plant capacity factor of at least 60%." Pub. Util. Code § 8340(a).

<sup>7</sup> D.07-01-039, Conclusion of Law 35(d), p. 269.

Rio Bravo and Chinese Station are biomass generating facilities identified to be pre-approved as EPS-compliant in D.07-01-039. The Commission found previously that their PPAs were pre-approved as meeting the EPS as “generating biomass facilit [ies] covered by Conclusion of Law 35(d) of D.07-01-039.” The Amendments do not alter these determining factors.

As amendments to the EPS-compliant Rio Bravo and Chinese Station PPAs, the Amendments meet EPS.

### **Project Viability Assessment and Development Status**

Rio Bravo and Chinese Station are fully developed and operational, and they are permitted and interconnected. The facilities use a mix of biomass fuels including HHZ fuels.

The confidential appendices include additional discussion about other viability considerations.

It is reasonable to expect PG&E and Rio Bravo and Chinese Station will meet the terms and conditions of the Amendments.

### **Safety Considerations**

California Public Utilities Code Section 451 requires that every public utility maintain adequate, efficient, just, and reasonable service, instrumentalities, equipment and facilities to ensure the safety, health, and comfort of the public. Based on the information before us, the Amendments do not appear to result in any adverse safety impacts on the facilities or operations of PG&E. Further, PG&E’s obligation to comply with Public Utilities Code Section 451 continues to apply.

### **RPS Eligibility and CPUC Approval**

Pursuant to Public Utilities Code Section 399.13, the California Energy Commission (CEC) certifies eligible renewable energy resources. Generation from a resource that is not CEC-certified cannot be used to meet RPS requirements. To ensure that only CEC-certified energy is procured under a Commission-approved RPS PPA, the Commission has required standard and

non-modifiable “eligibility” language in all RPS PPAs. That language requires a seller to warrant that the project qualifies and is certified by the CEC as an “Eligible Renewable Energy Resource,” that the project’s output delivered to the buyer qualifies under the requirements of the California RPS, and that the seller uses commercially reasonable efforts to maintain eligibility should there be a change in law affecting eligibility.<sup>8</sup>

The Commission requires a standard and non-modifiable clause in all RPS PPAs that requires “CPUC Approval” of a PPA to include an explicit finding that “any procurement pursuant to this Agreement is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (*Public Utilities Code Section 399.11 et seq.*), D.11-12-020 and D.11-12-052, or other applicable law.”<sup>9</sup>

Notwithstanding this language, the Commission has no jurisdiction to determine whether a project is not an eligible renewable energy resource, nor can the Commission determine prior to final CEC certification of a project, that “any procurement” pursuant to a specific contract will be “procurement from an eligible renewable energy resource.”

Therefore, while we include the required finding here, this finding has never been intended, and shall not be read now, to allow the generation from a non-RPS-eligible resource to count towards an RPS compliance obligation. Nor shall such finding absolve the seller of its obligation to obtain CEC certification, or the utility of its obligation to pursue remedies for breach of contract. Such contract enforcement activities shall be reviewed pursuant to the Commission’s authority to review the utilities’ administration of such contracts.

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<sup>8</sup> See, e.g. D.08-04-009 at Appendix A, STC 6, Eligibility.

<sup>9</sup> See, e.g. D.08-04-009 at Appendix A, STC 1, CPUC Approval.

### **Confidential Information**

The Commission, in implementing Public Utilities Code Section 454.5(g), has determined in D.06-06-066, as modified by D.07-05-032, that certain material submitted to the Commission as confidential should be kept confidential to ensure that market sensitive data does not influence the behavior of bidders in future RPS solicitations. D.06-06-066 adopted a time limit on the confidentiality of specific terms in RPS PPAs. Such information, including price, is confidential for three years from the date the contract states that energy deliveries begin, except contracts between IOUs and their affiliates, which are public.

The confidential appendices, marked “[REDACTED]” in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.

### **COMMENTS**

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived in “an uncontested matter in which the decision grants the relief requested.” The Commission’s Rules of Practice and Procedure also provides that public review and comment may be waived or reduced in an “unforeseen emergency situation” specifically where there are “[a]ctivities that severely impair or threaten to severely impair public health or safety” (Rule 14.6(a)(1)) and/or where there are “[c]rippling disasters that severely impair public health or safety” (Rule 14.6(a)(2)).

The 30-day comment period for the draft of this resolution was waived pursuant to these authorities. Accordingly, this draft resolution is scheduled for a vote at the Commission meeting on August 18, 2016.

### **FINDINGS**

1. Governor Brown issued an Emergency Proclamation on October 30, 2015, to protect public safety and property from falling dead trees and wildfire,

and the Proclamation directs the Commission to take various measures to ensure expedited contracts may be executed.

2. Commission Resolution E-4770 lifted the prohibition on bilateral procurement in Renewables Portfolio Standard D.15-12-025 to ensure the utilities could quickly respond to the emergency via bilateral procurement.
3. PG&E filed AL 4851-E on June 3, 2016. On June 13, PG&E filed and served substitute sheets for AL 4851-E, correcting a non-substantive error (the use of the word “amendment” instead of “contract”) made in 2011 when the prior amendments were filed.
4. The Amendments to the existing respective Power Purchase Agreements between Pacific Gas and Electric Company (PG&E) and Rio Bravo Fresno and Pacific Ultrapower Chinese Station are consistent with PG&E’s 2015 Renewables Portfolio Standard Procurement Plan as approved by D.15-12-025, and with the bilateral contracting authorization in E-4770.
5. The Amendments are characterized by, and executed pursuant to, unique circumstances including the Governor’s October 30, 2015 Tree Mortality Emergency Proclamation.
6. The price and value of the Amendments are reasonable based on available comparisons.
7. Consistent with D.06-05-039, an independent evaluator oversaw PG&E’s negotiations with Rio Bravo and Chinese Station and compared the costs, value and viability of the Amendments against peer groups consisting of alternative competing proposals currently or recently available to PG&E.
8. The Amendments do not modify the terms within the existing, approved Rio Bravo and Chinese Station Power Purchase Agreements, which include the Commission-adopted Renewables Portfolio Standard “non-modifiable” standard terms and conditions, as set forth in D.08-04-009, D.08-08-028, and D.10-03-021, as modified by D.11-01-025.
9. The terms of the Amendments, including the price of delivered energy, are reasonable.
10. Consistent with D.11-12-052, PG&E provided information in Advice Letter 4851-E regarding the expected Portfolio Content Category classification of



the Renewable Energy Credits to be procured pursuant to the contracts as amended.

11. Pursuant to D.02-08-071, PG&E complied with the Commission's rules for involving the Procurement Review Group.
12. The Amendments are pre-approved as meeting the Emissions Performance Standard because they are for existing biomass facilities covered by Conclusion of Law 35(d) of D.07-01-039.
13. It is reasonable to expect the Rio Bravo and Chinese Station facilities will meet the terms and conditions of the Amendments.
14. Procurement pursuant to the Rio Bravo and Chinese Station Power Purchase Agreements as amended herein is procurement from an eligible renewable energy resource for purposes of determining PG&E's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), D.11-12-020 and D.11-12-052, or other applicable law.
15. The immediately preceding finding shall not be read to allow generation from a non-Renewables Portfolio Standard eligible renewable energy resource under the Power Purchase Agreement to count towards a Renewables Portfolio Standard compliance obligation. Nor shall that finding absolve PG&E of its obligation to enforce compliance with the contracts as amended.
16. Deliveries under the contracts as amended shall be categorized as procurement under the portfolio content category specified in Section 399.16(b)(1)(A), subject to the Commission's after-the-fact verification that all applicable criteria have been met.
17. The confidential appendices, marked "[REDACTED]" in the public copy of this resolution, as well as the confidential portions of the advice letter, should remain confidential at this time.
18. PG&E should provide a report to the Energy Division Director on outcomes of the Amendments as specified in the Discussion section and in Confidential Appendix A.

19. The Amendments to the Rio Bravo and Chinese Station Power Purchase Agreements with PG&E should be approved in their entirety.
20. Advice Letter 4851-E, should be approved effective August 1, 2016.
21. Payments made by PG&E under the Amendments are fully recoverable in rates over the life of the Amendments, subject to Commission review of PG&E's administration of the Amendments. PG&E should seek recovery of these costs through its Energy Resource Recovery Account.

**THEREFORE IT IS ORDERED THAT:**

1. Pacific Gas and Electric Company's Amendments to its respective Power Purchase Agreements with Rio Bravo Fresno and Pacific Ultrapower Chinese Station as proposed in Advice Letter 4851-E and corrected in the substitute sheets to Advice Letter 4851-E are approved without modifications. Advice Letter 4851-E is approved without modification.
2. No later than 30 days after the end date of the Amendments, Pacific Gas and Electric Company shall provide a letter to the Energy Division Director reporting on outcomes as specified herein and in Confidential Appendix A.

This Resolution is effective August 1, 2016.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on August 18, 2016, the following Commissioners voting favorably thereon:

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TIMOTHY J. SULLIVAN  
Executive Director

**CONFIDENTIAL APPENDIX A**

[Redacted]

**CONFIDENTIAL APPENDIX B**

[Redacted]